

# ARKANSAS SUPREME COURT

No. CR 06-1118

NOT DESIGNATED FOR PUBLICATION

MANUEL TOOMBS  
Petitioner

v.

STATE OF ARKANSAS  
Respondent

Opinion Delivered November 9, 2006

*PRO SE* MOTION FOR BELATED  
APPEAL [CIRCUIT COURT OF LEE  
COUNTY, CR 2003-157, HON.  
HARVEY LEE YATES, JUDGE]

MOTION DENIED.

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## PER CURIAM

A judgment and commitment order entered in Lee County Circuit Court on March 2, 2005, reflects that petitioner Manuel Toombs entered a negotiated plea of guilty to theft of property and was sentenced to seventy-two months' imprisonment in the Arkansas Department of Correction. On October 2, 2006, petitioner filed the *pro se* petition in this court for belated appeal of the judgment which is now before us.

Under Ark. R. App. P.--Crim. 1, there is no right to appeal a guilty plea, except for a conditional plea of guilty premised on an appeal of the denial of a suppression motion pursuant to Ark. R. Crim. P. 24.3. *Seibs v. State*, 357 Ark. 331, 166 S.W.3d 16 (2004). Petitioner does not contend, and the record does not reflect, that his plea of guilty was conditional. We have recognized two other exceptions to the general rule, as set out in *Seibs* and *Bradford v. State*, 351 Ark. 394, 94 S.W.3d 904 (2003). The two exceptions are: (1) when there is a challenge to testimony or evidence presented before a jury in a sentencing hearing separate from the plea itself; and (2) when the appeal

is an appeal of a posttrial motion challenging the validity and legality of the sentence itself. *Seibs*, 357 Ark. at 334, 116 S.W.3d at 17; *Bradford*, 351 Ark. at 399, 94 S.W.3d at 907. The case at hand does not fall within either exception.

Petitioner does not contend, and the record does not reflect, that he was sentenced by a jury. The record does not indicate that any posttrial motion was filed. Petitioner indicates that he filed a petition for writ of error *coram nobis*, but moved to dismiss it. Thus, none of the recognized exceptions apply in this situation, and we therefore have no jurisdiction for an appeal. *See Seibs*, 357 Ark. at 335, 166 S.W.3d at 18.

Motion denied.

Glaze, J., not participating.